

TAX CODE CHAPTER 183. MIXED BEVERAGE TAX

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE G. GROSS RECEIPTS TAXES

CHAPTER 183. MIXED BEVERAGE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 183.001. DEFINITIONS. (a) The definitions in Section 1.04, Alcoholic Beverage Code, apply to this chapter.

(b) In this chapter:

(1) "Permittee" means a mixed beverage permittee, a private club registration permittee, a private club exemption certificate permittee, a private club late hours permittee, a daily temporary private club permittee, a private club registration permittee holding a food and beverage certificate, a daily temporary mixed beverage permittee, a mixed beverage late hours permittee, a mixed beverage permittee holding a food and beverage certificate, or a caterer permittee.

(2) "Business day" means the period beginning at 3 a.m. one day and ending at 3 a.m. the next day.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 7, eff. Sept. 1, 1995.

SUBCHAPTER B. MIXED BEVERAGE TAX

Sec. 183.021. TAX IMPOSED ON MIXED BEVERAGES. A tax at the rate of 14 percent is imposed on the gross receipts of a permittee received from the sale, preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Sec. 183.022. TAX RETURN DUE DATE. (a) A permittee shall file a tax return with the comptroller not later than the 20th day of each month.

(b) The return under this section shall be in a form prescribed by the comptroller and shall include a statement of the total gross taxable receipts during the preceding month and any other information required by the comptroller.

(c) A tax due for a business day that falls in two different months is allocated to the month in which the business day begins. Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 2, eff. Aug. 28, 1995.

Sec. 183.023. PAYMENT. The tax due for the preceding month shall accompany the return and shall be payable to the state. The comptroller shall deposit the revenue in the general revenue fund. Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 71, eff. Sept. 1, 1997.

SUBCHAPTER C. MIXED BEVERAGE TAX CLEARANCE

Sec. 183.051. MIXED BEVERAGE TAX CLEARANCE FUND. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall calculate the total amount of taxes received during the quarter from permittees outside an incorporated municipality within each county and the total amount received from permittees within each incorporated municipality in each county.

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue fund in an amount appropriated by the legislature that may not be greater than 10.7143 percent of receipts from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an amount appropriated by the legislature that may not be greater than 10.7143 percent of receipts from permittees within the incorporated municipality during the quarter.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.63, 2.64, eff. Oct. 1, 1999.

Sec. 183.052. CONFLICT OF RULES. If a rule or policy adopted by the commission conflicts with a rule adopted by the comptroller for the application, enforcement, or collection of the tax imposed by this chapter, the comptroller's rule prevails. A conflicting rule or policy adopted by the commission is invalid to the extent of the inconsistency. If the comptroller determines that a rule or policy adopted by the commission conflicts with one adopted by the comptroller relating to the application, enforcement, or collection of the tax imposed by this chapter, the comptroller shall notify the commission in writing of the determination. After receipt of the notification, the commission must amend or repeal the conflicting rule or policy not later than the 90th day after the date of notification.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Sec. 183.053. SECURITY REQUIREMENT. (a) A permittee subject to the tax imposed by this chapter must comply with the security requirements imposed by Chapter 151 except that a permittee is not required to comply with Section 151.253(b).

(b) The total of bonds, certificates of deposit, letters of credit, or other security determined to be sufficient by the comptroller of a permittee subject to the tax imposed by this chapter shall be in an amount that the comptroller determines to be sufficient to protect the fiscal interests of the state. The comptroller may not set the amount of security at less than \$1,000 or more than the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 2001, 77th Leg., ch. 442, Sec. 24, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 9, eff. June 15, 2007.

Sec. 183.054. AUDIT FREQUENCY. The comptroller shall have the discretion to determine the frequency of mixed beverage tax audits. In determining the frequency of the audit the comptroller

may consider the following factors:

- (1) reasonable and prudent accounting standards;
- (2) the audit history of the permittee;
- (3) the effect on state revenues; and
- (4) other factors the comptroller deems appropriate.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Sec. 183.055. CREDITS AND REFUNDS FOR BAD DEBTS. (a) A permittee may withhold the payment of the tax on a portion of the gross receipts that remains unpaid by a purchaser if:

- (1) during the reporting period in which the mixed beverage is sold, the permittee determines that the unpaid portion will remain unpaid;

- (2) the permittee enters the unpaid portion of the sales gross receipts in the permittee's books as a bad debt; and

- (3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) is paid, the permittee shall report and pay the tax on the portion during the reporting period in which payment is made.

(c) A permittee is entitled to credit or reimbursement for taxes paid on the portion of the gross receipts determined to be worthless and actually charged off for federal income tax purposes.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 3, eff. Aug. 28, 1995.